

CAUSE NO. 12077CV

MOLLY SEXTON

§ IN THE COUNTY COURT OF LAW

PLAINTIFF,

§

VS.

§

WAL-MART STORES TEXAS LLC AND
WAL-MART REAL ESTATE BUSINESS
TRUST

§

DEFENDANTS.

§

WALKER COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MOLLY SEXTON, hereinafter referred to as "PLAINTIFF," complaining of WALMART STORES OF TEXAS LLC and WALMART REAL ESTATE BUSINESS TRUST, hereinafter referred to as "DEFENDANTS," and for cause of action would respectfully show the Court and Jury the following:

PLAINTIFF, MOLLY SEXTON, is an individual and a resident citizen of Walker County, Texas. Pursuant to Rule 30.014, *Texas Rules of Civil Procedure*, Plaintiff's partial identification information is XXXXX563 (last three numbers of driver's license number) and XXX-XX-X862 (last three numbers of social security number). Pursuant to Rule 30.015, *Texas Rules of Civil Procedure*, Plaintiff's current residence address is 185 Chessher Drive, Trinity, Texas 75862.

Defendant WAL-MART STORES TEXAS, LLC is a company, corporation or partnership doing business in the State of Texas for the purpose of accumulating monetary gains and may be served with process by serving its registered agent for service CT

PLAINTIFF'S ORIGINAL PETITION

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EXHIBIT
A

Corporation System, 1999 Bryan St. Ste. 900, Dallas, Texas 75201 or wherever he may be found.

Defendant **WAL-MART REAL ESTATE BUSINESS TRUST** is a company, corporation or partnership doing business in the State of Texas for the purpose of accumulating monetary gains and may be served with process by serving its registered agent for service CT Corporation System, 1999 Bryan St. Ste. 900, Dallas, Texas 75201 or wherever he may be found.

II.

Venue is proper in Walker County, Texas, pursuant to § 15.002, *Civil Practice & Remedies Code*, in that the cause of action, or a part thereof, arose in Walker County.

III.

Pursuant to the provisions of Rule 190.1, *Texas Rules of Civil Procedure*, this suit is filed as a Level 2 suit, and the scope of discovery conducted in this cause shall be governed pursuant to the provisions of Rule 190.3, *Texas Rules of Civil Procedure*.

IV.

It has become necessary to bring this civil action to collect a legal debt and damages due and owing to **PLAINTIFF** by reason of an incident which occurred on or about December 23, 2013 in Walker County, Texas, where **PLAINTIFF**, was an invitee on **DEFENDANTS'** premises. Plaintiff slipped and fell due to water on the floor of the premises owned and or maintained by **DEFENDANTS**. The water was on the floor in the premises owned, operated and/or maintained by **DEFENDANTS** or its agents, officers, servants, and employees in a location and in such a manner as to constitute a dangerous

condition. As a direct and proximate result of the fall, PLAINTIFF'S body generally was injured.

Further, nothing your PLAINTIFF did or failed to do caused or contributed to cause the occurrence made the basis of this suit. To the contrary, the occurrence was proximately caused by the negligence, as that term is understood in law, of DEFENDANTS.

IV.

On the occasion in question, DEFENDANTS were negligent in the inspection and/or maintenance of the premises and of the floor and produce department on the premises in question. DEFENDANTS knew or should have known that the manner in which the premises was inspected and/or maintained did not adequately protect members of the public from injury. PLAINTIFF suffered her injuries as a direct and proximate result of the negligence of DEFENDANTS, in its operation and maintenance of the premises and the floor and produce department. DEFENDANTS were further negligent in failing to properly and adequately warn members of the public of the dangers inherent on the premises and in failing to properly and adequately supervise the usage of the premises in question. Each of such acts and omissions, singularly or in combination with others, constituted negligence which proximately caused serious and permanent injuries to PLAINTIFF.

V.

As a result of DEFENDANTS' negligence, PLAINTIFF has sustained much physical pain and mental anguish in the past, and will in all reasonable probability, continue to suffer the same in the future; she has sustained physical impairment in the past and will in all

reasonable probability, sustain the same in the future; they have sustained disfigurement in the past and will in all reasonable probability, sustain the same in the future. PLAINTIFF, as a result of her injuries, have suffered a loss of wage earning capacity in the past, and in all probability, will sustain a loss of wage earning capacity in the future. PLAINTIFF has sustained medical expenses in the past and will, in all reasonable probability, continue to sustain reasonable and necessary medical expenses in the future.

VI.

PLAINTIFF would additionally say and show that she is entitled to recovery of pre-judgment interest in accordance with law and equity as part of her damages herein and PLAINTIFF here and now sues specifically for recovery of pre-judgment interest from the date of the occurrence made the basis of this suit until the date of the judgment herein as provided by law and equity, under the applicable provisions of the laws of the State of Texas.

VII.

If it is the Defendant's contention that Plaintiff's medical bills are limited to those only paid and/or incurred by her or her insurance company, including Plaintiff's deductible and co-payments, then Plaintiff hereby seeks recovery for the premiums that she has paid for such insurance coverage since the Defendant has deprived her of the benefits of that insurance coverage without fair, due and just compensation. Additionally, Plaintiff would show that Tex. Civ. Prac. & Rem. Code § 41.0105 is an unconstitutional taking of Plaintiff's property and violates Plaintiff's due process rights under the Texas Constitution.

VIII.

PLAINTIFF would show this Honorable Court and Jury that her damages at the time of filing this Petition are continuing, but clearly exceed \$10,000 and the minimum jurisdictional limits of this Court, and expressly reserves the right to amend this Petition concerning her damages in the future.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF prays that the DEFENDANTS be cited to appear and answer herein, and that upon final trial hereof

PLAINTIFF have judgment against the DEFENDANTS in a sum far in excess of the minimum jurisdictional limits of this Court, plus interest thereon at the legal rate, pre-judgment interest, costs of court expended in her behalf, and for such other and further relief, at law and in equity, both general and special, to which PLAINTIFF may show herself justly entitled.

Respectfully submitted,

LAW OFFICES OF BENNIE D. RUSH

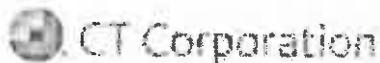


Bennie D. Rush
State Bar No. 17400425
1300 11th Street, Suite 300
Huntsville, Texas 77340
936/291-7600 Telephone
936/295-3330 Facsimile
ATTORNEY FOR PLAINTIFF

FILED FOR RECORD
At 3:30 o'clock P M

APR 27 2015

KARI FRENCH, COUNTY CLERK
WALKER COUNTY, TEXAS
by K. French Deputy



**Service of Process
Transmittal**
05/06/2015
CT Log Number 527073526

TO: Kim Lundy Service of Process, Legal Support Supervisor
Wal-Mart Stores, Inc.
702 SW 8th St MS 215
Bentonville, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Real Estate Business Trust (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Molly Sexton, Pltf, vs. Wal-Mart Stores Texas LLC and Wal-Mart Real Estate Business Trust, Dfts.

DOCUMENT(S) SERVED: Citation, Return, Original Petition

COURT/AGENCY: Walker County - County Court of Law, TX
Case # 12077CV

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition - 12/23/2013 - Walker County, Texas

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Certified Mail on 05/06/2015 postmarked on 04/30/2015

JURISDICTION SERVED: Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days after service

ATTORNEY(S) / SENDER(S): Bennie D. Rush
Law Offices of Bennie D. Rush
1300 11th Street
Suite 300
Huntsville, TX 77340
936-291-7600

ACTION ITEMS: CT has retained the current log, Retain Date: 05/06/2015, Expected Purge Date: 05/11/2015
Image SQP
Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com

SIGNED:
ADDRESS: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201

TELEPHONE: 214-932-3601

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Information displayed on this Transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

b d r

LAW OFFICES OF BENNIE D. RUSH, PC
A PROFESSIONAL CORPORATION

1300 11th Street, Suite 300
Huntsville, Texas 77340

CERTIFIED MAIL



7104 9940 7320 0000 3571



PS Form 3800, 07/2002

WALMART REAL ESTATE BUSINESS TRUST
C/O REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS TX 75201

[Signature]

75201-3140 0005

CLERK OF THE COURT	ATTORNEY FOR PLAINTIFF
Kari A. French County Clerk 1100 University Ave, Suite 201 Huntsville, Texas 77340 (936) 436-4922	Bennie D. Rush 1300 11th Street, Suite 300 Huntsville, Texas 77340 (936) 295-0700

CAUSE NO. 12077CV

**THE STATE OF TEXAS
CITATION FOR PERSONAL SERVICE**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by Ten O'clock (10:00) A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

**TO: WAL-MART REAL ESTATE BUSINESS TRUST - DEFENDANT
c/o ITS REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900, DALLAS, TEXAS 75201
OR WHEREVER IT CAN BE FOUND**

GREETINGS: You are hereby commanded to appear before the **COUNTY COURT AT LAW** of Walker County, Texas, to be held at the Courthouse of said County in the City of Huntsville, County, Texas, by filing a written answer to **PLAINTIFF'S ORIGINAL PETITION** at or before Ten o'clock (10:00) A.M. on the Monday next after the expiration of twenty (20) days after the date of service hereof, a copy of **PLAINTIFF'S ORIGINAL PETITION** which accompanies this citation in Cause Number **12077CV**, filed on the docket of said Court on this date: **April 27, 2015**, and styled:

MOLLY SEXTON, Plaintiff

VS.

**WAL-MART STORES TEXAS LLC AND WAL-MART REAL ESTATE BUSINESS TRUST,
Defendants**

The officer executing this writ shall serve the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Huntsville, Texas, this date: **April 28, 2015**.

**ATTEST: KARI A. FRENCH,
COUNTY CLERK
WALKER COUNTY, TEXAS**

By: Kathleen Cook, Deputy
Kathleen Cook

CAUSE NO. 12077CV

S E R V I C E O F C I T A T I O N R E T U R N

Came to hand on the _____ day of _____, 201____, at _____ o'clock ____M. and, executed at _____, _____ County, Texas, on the _____ day of _____, 201____ at _____ o'clock ____M., by delivering to the within-named Defendant, **WAL-MART REAL ESTATE BUSINESS TRUST c/o ITS REGISTERED AGENT CT CORPORATION SYSTEM**, in person, a true copy of this Citation, together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation and endorsed on such copy of citation the date of delivery.

Not executed as to the within-named Defendant, **WAL-MART REAL ESTATE BUSINESS TRUST c/o ITS REGISTERED AGENT CT CORPORATION SYSTEM**.

Due diligence used by Officer or authorized person: _____
and the cause of failure to execute this process is: _____
and the information received as to the whereabouts of the said Defendant(s), being _____

To certify which witness my hand officially
FEES -
Serving \$ _____
Copy(ies): \$ _____
TOTAL: \$ _____

CONSTITABLE/PROCESS SERVER
County, Texas

Deputy/Process Server

